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10/634,445	08/05/2003	Betty Birnbaum	1067-001	8287

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EXAMINER	
GUIDOTTI, LAURA COLE	
ART UNIT	PAPER NUMBER
1744	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/24/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/634,445	BIRNBAUM, BETTY	
	Examiner	Art Unit	
	Laura C. Guidotti	1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *26 October 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1 and 3-25* is/are pending in the application.

4a) Of the above claim(s) *6-22* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3-5 and 23-25* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *28 March 2006* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☒ Interview Summary (PTO-413) Paper No(s)/Mail Date. *20070119*.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claims 1, 3-5, and 23-25 objected to because of the following informalities:

Claim 1 Lines 9-11 recite "...said fingernail edge intersecting said straight edge at a first end...and then said S-shape continuing *downwardly from* said first end at an acute angle ***to*** *said straight edge to* a valley..." In the elected species, Figures 1-6, it does not appear that there the fingernail edge intersects the straight edge at a first end, *and then* continuing downward from said *first end* at an acute angle *to* the straight edge. To clarify, it appears that the Applicant may have meant in Line 10: "...an acute angle *from* said straight edge..." The acute angle is not continuing "to" the straight edge.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 1, 3-5, and 23-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "said end" in Lines 17-18. There is insufficient antecedent basis for this limitation in the claim. It is unclear as to whether the sharp tip is formed at the intersection of the straight edge and a first *or* second end, as there are two ends of the fingernail edge being claimed. It is believed, however, that the Applicant intends that the intersection be at the first end.

Claim 1 requires "a further edge having a sinuous curvature...", however in claim 25 which depends from claim 1, it claims that the "further edge comprises a further straight edge." It is unclear to the Examiner how a sinuous curved edge can also be straight.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1, 3, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson, US 3,178,747 in view of Killins, US D402,514 and Darrin, US 1,211,098.

Peterson discloses the claimed invention including a flexible member (2; Column 1 Line 52 to Column 2 Line 3) formed with a plurality of undulations (20, 22, 24; Column 2 Lines 14-16) and a plurality of edges defined by the shape of the member and the curvature of the undulations (4, 6, 8, 10). The plurality of edges (4, 6, 8, and 10) do not include an edge having a S-shaped curvature, a rounded edge, or edges having sinuous curvature, or a sharp tip formed at an intersection of a straight edge and an end of the fingernail edge making an acute angle. Regarding claim 3, Peterson further includes a lip (the "lip" edge is at "6" facing downwardly as shown in Figure 3).

Killins discloses a cleaning tool that is for universal radius forming and cleaning (see Title). The cleaning tool of Killins includes a straight edge (see bottommost edge as shown in Figure 3), a fingernail edge intersecting the straight edge having an S-shape and sinuous curvature and intersects the straight edge at a first end of the S-shape (see rightmost edge as shown in Figure 3) and then the S-shape continuing

downwardly from the first end at an angle to the straight edge to a valley and then upwardly to a rounded peak and then downwardly to a second end (again, see rightmost edge as shown in Figure 3, a second end is beyond a tip formed in Figure 3), a rounded edge disposed on a side of the member opposite the straight edge (see uppermost edge as shown in Figure 3) and having an end continuous with the second end of the S-shape of the fingernail edge (see Figure 3, the edge remains continuous throughout), and a further edge having a sinuous curvature disposed on a side member opposite the fingernail edge (see leftmost edge as shown in Figure 3), wherein there is a sharp tip formed at the intersection of the straight edge and an end of the S-shape of the fingernail edge (see corner formed on rightmost edge as shown in Figure 3). Regarding claim 25, there is a further straight edge (that being the vertical edge of the thickness is straight, Figures 2 and 4; or there is a slight part of the further edge that has a straight section.) Killins does not disclose that the fingernail edge intersects a straight edge at an end of the S-shape making an acute angle with the straight edge.

Darrin teaches a scraper tool that has a plurality of edges including a straight edge (2) and a fingernail edge intersecting the straight edge (including edges 4, 5, 9), the fingernail edge having a vague "S-shape" (see Figure 4) and intersects the straight edge at an end of S-shape making an acute angle with the straight edge (12), wherein a sharp tip is formed by the intersection of the straight edge and the end of the S-shape of the fingernail edge making an acute angle with the straight edge (12, C). Darrin teaches a scraper that is deigned to have an angle for every corner and an edge for every surface of a dish (Page 1 Lines 98-100).

It would have been obvious for one of ordinary skill in the art to modify the generally straight edges of Peterson for the varying edges that Killins teaches, so that a user may be capable of cleaning or scraping objects having various curvatures or radii and further it would have been obvious for one of ordinary skill in the art to further modify Peterson and Killins so that the fingernail edge intersects the straight edge making an acute angle with the straight edge, wherein a sharp tip is formed by the intersection making an acute angle with the straight edge, as Darrin teaches, in order to provide a specific designed edge shape appropriate for scraping a plate.

4. Claims 1, 3, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Killins, US D402,514 in view of Darrin, US 1,211,098 and Peterson, US 3,178,747.

Killins, Peterson, and Darrin disclose all elements above. However, Killins and Darrin do not disclose that the tool is flexible or that it is formed with a plurality of undulations. Peterson further discloses that the device "2" is flexible and has an improved gripping manner so that the user is able to position the scraper more effectively against a device being cleaned (Column 1 Lines 27-33, Column 2 Lines 16-18). Also, neither Killins or Peterson disclose that the fingernail edge intersects a straight edge at an end of the S-shape making an acute angle with the straight edge and that the sharp tip is formed by the intersection of the straight edge and the end of the S-shape of the fingernail edge making an acute angle with the straight edge.

It would have been obvious for one of ordinary skill in the art to modify the edges of Killins so that the fingernail edge intersects the straight edge making an acute angle with the straight edge, wherein a sharp tip is formed by the intersection making an acute

angle with the straight edge, as Darrin teaches, in order to provide a specific designed edge shape appropriate for scraping a plate and further it would have been obvious for one of ordinary skill in the art to modify the cleaning tool body of Killins and Darrin to be made of a flexible material having undulations, as Peterson teaches, so that a user can grip and position the cleaning scraper more effectively against a surface that is to be cleaned.

5. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Killins, US D402,514, Darrin, US 1,211,098, and Peterson, US 3,178,747 as applied to Claim 3, in view of Sheridan, US 1,538,521.

Killins, Darrin, and Peterson disclose all elements above, however do not include a lower surface having a roughened region disposed along an undulation. The device of Peterson includes an upper and a lower surface (see uppermost and lowermost portions as displayed in Figure 2).

Sheridan teaches a scraper for cooking utensils that has an undulation (formed at portion "11") and an upper surface and lower surface (see uppermost and lowermost surfaces as shown in Figures 2-3), wherein the lower surface has a roughened region disposed along an undulation (12; Page 1 Lines 73-74) so that the device can be held by a user more steadily (Page 1 Lines 77-81).

It would have been obvious for one of ordinary skill in the art to modify an undulation of the device of Killins, Darrin, and Peterson to include a roughened region, as Sheridan teaches, so that a user may hold the cleaning device more steadily.

6. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Killins, US D402,514, Darrin, US 1,211,098, Peterson, US 3,178,747, and Sheridan, US 1,538,521 as applied to Claim 4, in view of Houghton, US 614,810.

Killins, Darrin, Peterson, and Sheridan disclose all elements above, however do not disclose a rounded edge that is sharpened.

Houghton also discloses all elements above, including side edges that are sharpened (Figure 3; Page 1 Lines 42-44). Figures 2-3 of Houghton display that all of the edges are sharpened (except portions which are toothed).

It would have been obvious for one of ordinary skill in the art to modify the rounded edge of the device of Killins, Darrin, Peterson, and Sheridan to be sharpened, as Houghton teaches, in order to scrape and remove debris from surfaces.

7. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Killins, US D402,514, Darrin, US 1,211,098, and Peterson, US 3,178,747 as applied to Claim 1, in view of Meredith, US 1,388,282.

Killins, Darrin, and Peterson disclose all elements above, however do not disclose that the member has a thickness which varies so as to impart flexibility.

Meredith teaches a flexible cooking vessel cleaner wherein the centermost portion is thicker so that there is an increased stiffness for efficient cleaning (Lines 45-49).

It would have been obvious for one of ordinary skill in the art to modify the member of Killins, Darrin, and Peterson so that there is a varied thickness, as Meredith

teaches, in order to provide a stiffer section that beneficially makes cleaning more efficient.

Allowable Subject Matter

8. Claim 24 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: None of the prior art made of record discloses all elements of claimed invention, particularly that a scraper member having undulations would require the undulations to include valley portions and peak portions wherein the thickness of the valley portions is greater than the thickness of the peak portions. While Peterson US 3,178,747 teaches a scraper member comprising undulations, it is described and shown in the Figures is having as to what appears to be a constant thickness. Meredith US 1,388,282 teaches a varying thickness to impart flexibility, however does not include undulations, and particularly specifying valley portions having a thickness greater than that of peak portions.

Response to Arguments

9. Applicant's arguments filed 26 October 2006 have been fully considered but they are not persuasive.

As stated above, Killins does in fact disclose a fingernail edge intersecting the straight edge having an S-shape and sinuous curvature and intersects the straight edge at a first end of the S-shape (see rightmost edge as shown in Figure 3) and then the S-

shape continuing downwardly from the first end at an angle to the straight edge to a valley and then upwardly to a rounded peak and then downwardly to a second end (again, see rightmost edge as shown in Figure 3, a second end is beyond a tip formed in Figure 3). Particularly, it is noted that in the rightmost edge shown in Figure 3 that a second end may be considered to beyond the right edge corner (or so referred to by the Applicant "the second straight line" of Killins, Page 10 second to last line). Darrin is relied upon to teach an acute angle, as stated above in the rejections. As best structurally set forth in Claim 3, Peterson does in fact a lip (the "lip" edge is at "6" facing downwardly as shown in Figure 3). A "lip" is defined as "any edge or rim" according to *Dictionary.com Unabridged (v 1.1) Based on the Random House Unabridged Dictionary, © Random House, Inc. 2006.*

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C. Guidotti whose telephone number is (571) 272-1272. The examiner can normally be reached on Monday-Thursday, 7:30am - 5pm, alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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lcg